

“Subchapter C—Direct Payment Provisions

“Sec. 6451. Elective payment for specified energy property.

“SEC. 6451. ELECTIVE PAYMENT FOR SPECIFIED ENERGY PROPERTY.

“(a) ELECTIVE PAYMENT.—

“(1) IN GENERAL.—Any eligible person electing the application of this section with respect to any specified energy property originally placed in service by such person during the taxable year shall be treated as making a payment against the tax imposed by subtitle A for the taxable year equal to the applicable percentage of the basis of such property. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed.

“(2) ELIGIBILITY.—A person shall not be eligible to elect the application of this section unless such person has been certified as eligible by the Secretary, under such rules as the Secretary, in consultation with the Secretary of Energy, may prescribe.

“(b) APPLICABLE PERCENTAGE.—For purposes of this section, the term ‘applicable percentage’ means—

“(1) 30 percent in the case of any property described in paragraph (2)(A)(i) or (5) of section 48(a), and

“(2) 10 percent in the case of any other property.

“(c) DOLLAR LIMITATIONS.—In the case of property described in paragraph (1), (2), or (3) of section 48(c), the payment otherwise treated as made under subsection (a) with respect to such property shall not exceed the limitation applicable to such property under such paragraph.

“(d) SPECIFIED ENERGY PROPERTY.—For purposes of this section—

“(1) IN GENERAL.—The term ‘specified energy property’ means energy property (within the meaning of section 48) which—

“(A) is originally placed in service before January 1, 2012, or

“(B) is originally placed in service on or after such date and before the credit termination date with respect to such property, but only if the construction of such property began before January 1, 2012.

“(2) CREDIT TERMINATION DATE.—The term ‘credit termination date’ means—

“(A) in the case of any energy property which is part of a facility described in paragraph (1) of section 45(d), January 1, 2013,

“(B) in the case of any energy property which is part of a facility described in paragraph (2), (3), (4), (6), (7), (9), or (11) of section 45(d), January 1, 2014, and

“(C) in the case of any energy property described in section 48(a)(3), January 1, 2017.

In the case of any property which is described in subparagraph (C) and also in another subparagraph of this paragraph, subparagraph (C) shall apply with respect to such property.

“(e) COORDINATION WITH PRODUCTION AND INVESTMENT CREDITS.—In the case of any property with respect to which an election is made under this section—

“(1) DENIAL OF PRODUCTION AND INVESTMENT CREDITS.—No credit shall be determined under section 45 or 48 with respect to such property for the taxable year in which such property is originally placed in service or any subsequent taxable year.

“(2) REDUCTION OF PAYMENT BY PROGRESS EXPENDITURES ALREADY TAKEN INTO ACCOUNT.—The amount of the payment treated as made under subsection (a) with respect to such property shall be reduced by the aggregate amount of credits determined under section 48 with respect to such property for all taxable years preceding the taxable year in which such property is originally placed in service.

“(f) SPECIAL RULES FOR CERTAIN NON-TAXPAYERS.—

“(1) DENIAL OF PAYMENT.—Subsection (a) shall not apply with respect to any property originally placed in service by—

“(A) any governmental entity other than a governmental unit which is a State utility with a service obligation (as such terms are defined in section 217 of the Federal Power Act), or

“(B) any organization described in section 501(c) (other than a mutual or cooperative electric company described in section 501(c)(12)) or 401(a) and exempt from tax under section 501(a).

“(2) EXCEPTION FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—Paragraph (1) shall not apply with respect to any property originally placed in service by an entity described in section 511(a)(2) if substantially all of the income derived from such property by such entity is unrelated business taxable income (as defined in section 512).

“(3) SPECIAL RULES FOR PARTNERSHIPS AND S CORPORATIONS.—In the case of property originally placed in service by a partnership or an S corporation—

“(A) the election under subsection (a) may be made only by such partnership or S corporation,

“(B) such partnership or S corporation shall be treated as making the payment referred to in subsection (a) only to the extent of the proportionate share of such partnership or S corporation as is owned by persons who would be treated as making such payment if the property were originally placed in service by such persons, and

“(C) the return required to be made by such partnership or S corporation under section 6031 or 6037 (as the case may be) shall be treated as a return of tax for purposes of subsection (a).

For purposes of subparagraph (B), rules similar to the rules of section 168(h)(6) (other than subparagraph (F) thereof) shall apply. For purposes of applying such rules, the term ‘tax-exempt entity’ shall not include any entity which is a governmental unit which is a State utility with a service obligation (as such terms are defined in section 217 of the Federal Power Act) or which is a mutual or cooperative electric company described in section 501(c)(12).

“(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) OTHER DEFINITIONS.—Terms used in this section which are also used in section 45 or 48 shall have the same meanings for purposes of this section as when used in such sections.

“(2) APPLICATION OF RECAPTURE RULES, ETC.—Except as otherwise provided by the Secretary, rules similar to the rules of section 50 (other than paragraphs (1) and (2) of subsection (d) thereof), and section 1603 of the American Recovery and Reinvestment Act of 2009, shall apply.

“(3) EXCLUSION FROM GROSS INCOME.—Any credit or refund allowed or made by reason of this section shall not be includible in gross income or alternative minimum taxable income.

“(4) EXCEPTION FOR CERTAIN PROJECTS.—Subsection (a) shall not apply to any governmental unit or cooperative electric company (as defined in section 54(j)(1)) with respect to any specified energy property which is described in section 48(a)(5)(D) if such entity has issued any bond—

“(A) which is designated as a clean renewable energy bond under section 54 of the Internal Revenue Code of 1986 or as a new clean renewable energy bond under section 54C of such Code, and

“(B) the proceeds of which are used for expenditures in connection with the same

qualified facility with respect to which such specified energy property is a part.

“(5) COORDINATION WITH GRANT PROGRAM.—If a grant under section 1603 of the American Recovery and Reinvestment Tax Act of 2009 is made with respect to any specified energy property—

“(A) no election may be made under subsection (a) with respect to such property on or after the date of such grant, and

“(B) if such grant is made after such election, such property shall be treated as having ceased to be specified energy property immediately after such property was originally placed in service.”.

(b) TREATMENT OF GRANTS FOR COOPERATIVE ELECTRIC COMPANIES.—Section 501(c)(12) is amended by adding at the end the following new subparagraph:

“(I) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), subparagraph (A) shall be applied without taking into account any payment made by reason of section 6452.”.

(c) CONFORMING AMENDMENTS RELATED TO DIRECT PAYMENT.—

(1) Subparagraph (A) of section 6211(b)(4)(A) is amended by inserting “and subchapter C of chapter 65 (including any payment treated as made under such subchapter)” after “6431”.

(2) Subparagraph (B) of section 6425(c)(1) is amended—

(A) by striking “the credits” and inserting “the sum of—

“(i) the credits”.

(B) by striking the period at the end of clause (i) thereof (as amended by this paragraph) and inserting “, plus”, and

(C) by adding at the end the following new clause:

“(ii) the payments treated as made under subchapter C of chapter 65.”.

(3) Paragraph (3) of section 6654(f) is amended—

(A) by striking “the credits” and inserting “the sum of—

“(A) the credits”.

(B) by striking the period at the end of subparagraph (A) thereof (as amended by this paragraph) and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(B) the payments treated as made under subchapter C of chapter 65.”.

(4) Subparagraph (B) of section 6655(g)(1) is amended—

(A) by striking “the credits” and inserting “the sum of—

“(i) the credits”.

(B) by striking the period at the end of clause (i) thereof (as amended by this paragraph) and inserting “, plus”, and

(C) by adding at the end the following new clause:

“(ii) the payments treated as made under subchapter C of chapter 65.”.

(5) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “, or from the provisions of subchapter C of chapter 65 of such Code” before the period at the end.

(6) The table of subchapters for chapter 65 is amended by adding at the end the following new item:

“SUBCHAPTER C. DIRECT PAYMENT PROVISIONS.”.

(d) CLARIFICATION OF APPLICATION OF GRANTS FOR SPECIFIED ENERGY PROPERTY TO CERTAIN REGULATED COMPANIES.—The first sentence of section 1603(f) of the American Recovery and Reinvestment Tax Act of 2009 is amended by inserting “(other than subsection (d)(2) thereof)” after “section 50 of the Internal Revenue Code of 1986”.

(e) TECHNICAL AMENDMENTS.—